

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SEAN BUTLER,

Petitioner,

ORDER

v.

10-cv-0128-bbc

PETER HUIBREGTSE, Warden,
Wisconsin Secure Program Facility,

Respondent.

The Court of Appeals for the Seventh Circuit has forwarded to this court Sean Butler's request for a certificate of appealability. Dkt. #11. I have already determined in previous orders in this case that petitioner is not entitled to a certificate. See Order, March 26, 2010, dkt. #3 at 7; Order, August 13, 2010, dkt. #10, at 7. Accordingly, I construe petitioner's request as a notice of appeal.

Because petitioner has not paid the \$455 appellate filing fee, I presume that he seeks leave to proceed *in forma pauperis* on appeal. However, I am unable to determine whether petitioner should be allowed to proceed *in forma pauperis* because he has not submitted an affidavit of indigency. (Petitioner paid the five dollar filing fee in this court, so there is no affidavit of indigency to which this court could now refer).

Petitioner may have until November 22, 2010 either to pay \$455 to the clerk of this court as his appellate filing and docketing fee, or to file his motion for leave to proceed *in forma*

pauperis on appeal. If petitioner fails to exercise one of these options by this deadline, then I will assume that he has abandoned his appeal.

ORDER

IT IS ORDERED that

1. Petitioner's request for a certificate of appealability (dkt. #11) is construed as a notice of appeal.

2. Petitioner has until November 22, 2010, in which to either pay \$455 to the clerk of this court as his appellate filing and docketing fee, or to file his motion for leave to proceed *in forma pauperis* on appeal.

Entered this _____ day of October, 2010.

BY THE COURT:

BARBARA B. CRABB
District Judge